

Application in Service Appeal No. 1281/2015  
Gul Zameer Vs. Deputy Commissioner, Swabi etc.

17.11.2017 Mr. Kaleem Ullah, Advocate, counsel for the appellant submitted application for correction of name of counsel for the appellant in the judgment dated 26.10.2016 in service appeal No. 1281/2015.

Application is accepted and in the afore mentioned judgment name of the counsel for the appellant may be read and considered as "Kaleem Ullah Advocate" instead of Mr. Munsif Saeed, Advocate. File be consigned to the record room.

  
CHAIRMAN

**BEFORE THE HONOURABLE**  
**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

Gul Zameer

(Appellant)

**VERSUS**

Deputy Commissioner Swabi and others

(Respondents)

Application for correction of Clerical Mistake  
regarding mentioned the name of petitioner's counsel

Respectfully Sheweth,

- 1) That the above noted appeal was decided by this honourable tribunal vide order and judgment dated 26.10.2017.
- 2) That learned counsel for the appellant Mr. Kaleem Ullah Advocate argued the instant appeal but inadvertently name of Mr. Munsif Saeed Advocate now Civil Judge was mentioned as counsel for the appellant.
- 3) That due to the above said reason the name of the appellant's counsel Mr. Kaleem Ullah Advocate may kindly be mentioned in the order and judgment dated 26.10.2017 of this honourable tribunal.

It is, therefore, most humbly requested that on acceptance of instant application, the name of appellant's counsel Mr. Kaleem Ullah Advocate may kindly be inserted in place of Mr. Munsif Saeed Advocate, in the above mentioned order of this honourable tribunal.

Through

Appellant

Kaleem Ullah  
Advocate High Court,  
Peshawar

Dated: 09.11.2017

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1281/2015

Date of Institution ... 10.11.2015

Date of Decision ... 26.10.2017



Gul Zameer (Naib Qasid BPS-02) office of the Deputy Commissioner, Swabi.  
... (Appellant)

VERSUS


1. Deputy Commissioner, Swabi and others. ... (Respondents)

MR. MUNSIF SAEED,  
Advocate ... For appellant

MR. MUHAMMAD JAN,  
Deputy District Attorney, ... For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. GUL ZEB KHAN, ... CHAIRMAN  
... MEMBER

ATTESTED

  
CHAIRMAN  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN. Arguments of the

learned counsel for the parties heard and record perused.

FACTS

2. The appellant was serving in the office of Deputy Commissioner Swabi as Naib Qasid in right from 2004. That on 10.07.2015, a promotion order was made and despite his seniority at S.No. 4 he was ignored and respondent No. 3 who was junior to him was promoted. Against this order, the appellant filed his departmental appeal before the Commissioner, Mardan Division on 27.07.2015 which was

rejected on 21.09.2012 and thereafter the appellant filed the present service appeal

on 10.11.2012.

ARGUMENTS.


3. The learned counsel for the appellant argued that according to the method of recruitment 20% seats were reserved for promotion from Qaid and holders of various posts who possessed 2.2.C in 2<sup>nd</sup> division and having at least 3 years service as such. That the appellant fulfilled the said qualification but was not promoted on the ground that he could not qualify the test conducted for promotion by the DPC. The learned counsel for the appellant referred to the promotion and initial recruitment policy of the Provincial Government dated 11.2.1987 wherein it was specifically mentioned that no test shall be conducted for promotion.

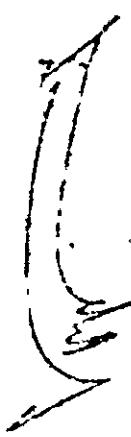
4. On the other hand, the learned Deputy District Attorney argued that the appellant was rightly ignored and respondent No. 3 was rightly promoted on the ground that as per qualification mentioned in Column No. 3 of method of recruitment (which was a necessary qualification for promote candidates to have speed of 30 words per minute) and that as per the DPC, the appellant had no knowledge of computer and typing.

CONCLUSION.

2. The argument of the learned Deputy District Attorney regarding qualification in column 3 of the method of recruitment is not convincing because in column 3 the qualifications are for initial recruitment and not for promotion. For promotees the qualification and length of service has been given in column No. 2 which is SSC 2<sup>nd</sup> division with 3 years length of service. The policy of selection for promotional recruitments issued by the Provincial Government on 11.2.1987 clearly states that there shall be no test for promotion to any post in a grade below

ATTESTED

  
Deputy District Attorney  
Khyber Pakhtunkhwa  
Government



rejected on 21.09.2015 and thereafter the appellant filed the present service appeal on 10.11.2015.

### ARGUMENTS.

3. The learned counsel for the appellant argued that according to the method of recruitment 20% seats were reserved for promotion from Qasid and holders of equivalent posts who possessed S.S.C in 2<sup>nd</sup> division and having at least 3 years service as such. That the appellant fulfilled the said qualification but was not promoted on the ground that he could not qualify the test conducted for promotion by the DPC. The learned counsel for the appellant referred to the promotion and initial recruitment policy of the Provincial Government dated 11.2.1987 wherein it has specifically been mentioned that no test shall be conducted for promotion.

4. On the other hand, the learned Deputy District Attorney argued that the appellant was rightly ignored and respondent No. 3 was rightly promoted on the ground that as per qualification mentioned in Column No. 3 of method of recruitment (which was a necessary qualification for promotee candidates to have speed of 30 words per minute) and that as per the DPC, the appellant had no knowledge of computer and typing.

### CONCLUSION.

5. The argument of the learned Deputy District Attorney regarding qualification in column 3 of the method of recruitment is not convincing because in column 3 the qualifications are for initial recruitment and not for promotion. For promotees the qualification and length of service has been given in column No. 5 which is SSC 2<sup>nd</sup> division with 3 years length of service. The policy of selection for promotion/initial recruitments issued by the Provincial Government on 11.2.1987 clearly states that there shall be no test for promotion to any post in a grade below

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

grade 16 and the promotion shall be determined on the basis of service record i.e. seniority-cum-fitness. In view of the above discussion, this Tribunal reaches the conclusion that the appellant was wrongly ignored at the relevant time and respondent No. 3 should not have been promoted in his place.

6. In view of the above, this Tribunal accepts the appeal and the respondents are directed to consider the appellant for promotion from due date. Parties are left to bear their own costs. File be consigned to the record room.

Announced  
26.10.2017 SD/ Niaz Muhammad Khan,  
Chairman

Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

SD/ Gulzar Khan,  
Member

Date of Presentation 30-10-2017  
Number of Pages 1200  
Copy fee 8-  
Urgent -  
Fees 8-  
Name of Clerk M  
Date of Completion 03-11-17  
Date of Delivery 03-11-17